IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 655 of 1988

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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LATABEN SANATKUMAR PANDYA & 3 - Appellant(s)
Versus
SHANABHAI ZINABHAI VASAVA & 4 - Defendant(s)

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Appearance :
MR DN PANDYA for Appellant(s) : 1,
None for Defendant(s) : 1, 3,
MR RAJNI H MEHTA for Defendant(s) : 2,
DELETED for Defendant(s) : 4 - 5.

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE MD SHAH

Date : 21/09/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

1. Before effective hearing, learned Counsel Shri D.N.Pandya on instructions from appellant no.1 Smt. Lataben Sanatkumar Pandya seeks permission to reduce the claim from Rs.4,17,100/- to Rs.1,00,000/- for the purpose of Court fees. Permission granted. Accordingly, the claim is reduced to Rs.1,00,000/- for the purpose of Court fee.

2. Heard the learned Counsel for the parties. Sanatkumar N. Pandya died in a vehicular accident in 1985 leaving behind him his widow present appellant no.1, two minor daughters and one minor son. On his death, the present appellants-claimants filed claim petition no.445/1985 before the Motor Accident Claims Tribunal (Main), Bharuch, (for short “the Tribunal”) and claimed Rs.7,32,000/- The learned Tribunal, however partly allowed the claim petition and awarded Rs,3,14,900/-with interest at the rate of 12% per annum from the date of petition till realisation with costs from opponents nos.1,2 and 3 jointly and severally. For rest of the amount of Rs.4,17,000/-, the appellants had filed present appeal. As stated earlier, the claim in this appeal was later on reduced to Rs.1,00,000/- before effective hearing. Therefore, we have

considered the case of the appellants for the purpose of awarding additional Rs.1,00,000/- in this appeal.

3. After considering the evidence on record and other material, the learned Tribunal in paragraph 16 of its judgment came to the conclusion that Rs.35,000/-per year can be considered as net income of the deceased, out of which, Rs.10,000/- was deducted. Thus, the learned Tribunal considered the figure of Rs.25,0000/-per year for dependency. Considering the age of the deceased which was 37 at the time of accident, the learned Tribunal applied multiplier of 12. Accordingly, for loss of dependency awarded Rs.3,00,000/-. Having regard to the facts and circumstances of the case as well as the evidence on record both the learned Counsel for the parties agreed that Rs.30,000/-per year should have been the proper figure and keeping in mind the latest judgment of the Honourable Supreme Court in the case of **U.P.State Road Transport Corporation v. Krishna Bala & Ors., reported in 2006 ACJ 2114,** 13 years multiplier was proper. Thus, instead of Rs.3,00,000/-, the claimants would be entitled for Rs.3,90,000/-towards loss of dependency. In the instant case, the learned Tribunal has awarded only Rs.10,000/- by way of loss of expectation of life. Therefore, both the learned

Counsel for the parties agreed that Rs.20,000/- would be the proper figure and accordingly we award Rs.20,000/- instead of Rs.10,000/- loss of expectation of life awarded by the Tribunal. The rest of the amount of Rs.2000/- awarded towards funeral charges and Rs.2900/- for damage to the scooter, we do not want to interfere. In short, the appellants-original claimants would be entitled to Rs.4,14,900/-. Thus, the appeal is required to be fully allowed. Accordingly, it is held that the appellants would be entitled to Rs.1,00,000/-more in addition to Rs.3,14,900/- already awarded by the Tribunal by its judgment and award dated 30-7-1987.

4. Accordingly, this appeal is allowed, The appellants do recover additional amount of Rs.1,00,000/- in this appeal from the respondents jointly and severally with the interest the rate of 9% per annum, with costs from the date of petition till its realisation.

5. The appellant no.1 who is personally present before the Court through her Advocate Shri Pandya states that she is serving as a Clerk in Bank of Baroda. After death of her husband in the accident, she has not re-married for the future of her three children i.e. two daughters and one son. Now, all of them have become major. Two

daughters have already got married whereas her son is of marriageable age. Therefore, instead of ordering deposit of the amount, the additional amount with cost and interest be paid to her by way of account payee cheque.

5. In view of the above, the opponent no.3-Insurance Company is directed to deposit additional amount of Rs.1,00,000/- with 9% interest per annum on it from the date of claim petition till its realisation and also the costs before the Tribunal on or before 1st November, 2006. On depositing the said amount, the Tribunal shall pay the entire amount by way of account payee cheque to the appellant no.1-Smt. Lataben Sanatkumar Pandya. Appeal is accordingly allowed with costs.

(B.J.Shethna,J.)

(M.D.Shah,J.)

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